

---

By: **Delegate Madaleno**  
Introduced and read first time: February 18, 2004  
Assigned to: Rules and Executive Nominations

---

A BILL ENTITLED

1 AN ACT concerning

2 **State Employees - Unused Annual Leave - Special Pay Plan**

3 FOR the purpose of establishing a Special Pay Plan for the purpose of allowing  
4 certain State employees to contribute to a certain plan with tax-qualified status  
5 under the Internal Revenue Code; requiring the Comptroller, in consultation  
6 with the Secretary of Budget and Management, to administer the Special Pay  
7 Plan, to adopt certain regulations, and to adopt, implement, and maintain the  
8 Special Pay Plan qualified under the Internal Revenue Code; requiring the  
9 Comptroller to hire certain entities; providing for the vesting of a participating  
10 employee in the Special Pay Plan; providing for the distribution of a  
11 participating employee's interest in the Special Pay Plan; providing for the  
12 duties of certain entities hired by the Comptroller; providing for the  
13 indemnification of certain entities; requiring the Secretary of Budget and  
14 Management to adopt regulations to establish certain eligibility criteria for  
15 participants in the Special Pay Plan; requiring that participation in the Special  
16 Pay Plan is mandatory; requiring the Comptroller to make certain contributions  
17 to the Special Pay Plan on behalf of certain employees; requiring the  
18 Comptroller and Secretary of Budget and Management to adopt regulations  
19 regarding the certain contributions to the Special Pay Plan; defining certain  
20 terms; and generally relating to establishing a Special Pay Plan for State  
21 employees.

22 BY adding to  
23 Article - State Personnel and Pensions  
24 Section 33-101 through 33-302, inclusive, to be under the new title "Title 33.  
25 Special Pay Plan"  
26 Annotated Code of Maryland  
27 (1997 Replacement Volume and 2003 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
29 MARYLAND, That the Laws of Maryland read as follows:

Article - State Personnel and Pensions

TITLE 33. SPECIAL PAY PLAN.

SUBTITLE 1. DEFINITIONS.

33-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "DESIGNATED COMPANY" MEANS A COMPANY THAT ON OR AFTER JULY 1, 2004, WAS DESIGNATED BY THE COMPTROLLER TO OFFER A SPECIAL PAY PLAN APPROVED BY THE INTERNAL REVENUE SERVICE.

(C) "ELIGIBLE EMPLOYEE" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO PARTICIPATE IN THE SPECIAL PAY PLAN.

(D) "PARTICIPATING EMPLOYEE" MEANS AN ELIGIBLE EMPLOYEE WHO PARTICIPATES IN THE SPECIAL PAY PLAN.

(E) "SECRETARY" MEANS THE SECRETARY OF BUDGET AND MANAGEMENT.

(F) "SPECIAL PAY PLAN" MEANS A QUALIFIED TRUST ESTABLISHED UNDER § 401(A) OF THE INTERNAL REVENUE CODE.

33-102.

(A) THE SPECIAL PAY PLAN IS IN ADDITION TO ANY OTHER RETIREMENT, PENSION, OR BENEFIT SYSTEM ESTABLISHED BY THE STATE.

(B) A DEFERRAL OF COMPENSATION UNDER THE SPECIAL PAY PLAN DOES NOT REDUCE THE AMOUNT OF ANY RETIREMENT, PENSION, OR OTHER BENEFIT PROVIDED BY STATE LAW.

SUBTITLE 2. SPECIAL PAY PLAN.

33-201.

THERE IS A SPECIAL PAY PLAN FOR ELIGIBLE EMPLOYEES AS ALLOWED BY § 401(A) OF THE INTERNAL REVENUE CODE.

33-202.

THE COMPTROLLER, IN CONSULTATION WITH THE SECRETARY, SHALL ADMINISTER THE SPECIAL PAY PLAN.

33-203.

(A) THE COMPTROLLER SHALL ADOPT, IMPLEMENT, AND MAINTAIN THE SPECIAL PAY PLAN.

1 (B) (1) IN ACCORDANCE WITH DIVISION II OF THE STATE FINANCE AND  
2 PROCUREMENT ARTICLE, THE COMPTROLLER SHALL SELECT A DESIGNATED  
3 COMPANY OFFERING A SPECIAL PAY PLAN APPROVED BY THE INTERNAL REVENUE  
4 SERVICE.

5 (2) THE COMPTROLLER SHALL APPROVE THE FORM AND CONTENTS OF  
6 THE CONTRACT OFFERED TO A DESIGNATED COMPANY.

7 (3) THE COMPTROLLER SHALL PERIODICALLY REVIEW THE  
8 INVESTMENT OPTIONS OFFERED BY THE DESIGNATED COMPANY THROUGH THE  
9 SPECIAL PAY PLAN.

10 (C) THE COMPTROLLER AND THE SECRETARY SHALL ADOPT REGULATIONS  
11 TO CARRY OUT THIS TITLE.

12 (D) A PARTICIPATING EMPLOYEE'S INTEREST IN THE SPECIAL PAY PLAN:

13 (1) SHALL IMMEDIATELY BE 100% VESTED AND BE MADE AVAILABLE TO  
14 THE EMPLOYEE IN A MANNER CONSISTENT WITH THE INTERNAL REVENUE CODE;  
15 AND

16 (2) SHALL BE HELD IN TRUST FOR THE EXCLUSIVE BENEFIT OF THE  
17 PARTICIPATING EMPLOYEE.

18 33-204.

19 THE COMPTROLLER IS NOT RESPONSIBLE FOR:

20 (1) RETIREMENT COUNSELING WITH RESPECT TO THE SPECIAL PAY  
21 PLAN;

22 (2) PREPARING OR DISSEMINATING INFORMATION WITH RESPECT TO  
23 THE PROVISIONS OF THE SPECIAL PAY PLAN OFFERED BY A DESIGNATED COMPANY;  
24 OR

25 (3) ENROLLING, TERMINATING, OR RETIRING A PARTICIPATING  
26 EMPLOYEE.

27 33-205.

28 (A) BEFORE ENROLLING A PARTICIPATING EMPLOYEE, THE DESIGNATED  
29 COMPANY SHALL PROVIDE TO ELIGIBLE EMPLOYEES, THE COMPTROLLER, AND THE  
30 SECRETARY ANY INFORMATION REQUESTED REGARDING THE DESIGNATED  
31 COMPANY, THE SPECIAL PAY PLAN, OR THE INVESTMENT OPTIONS OFFERED BY THE  
32 DESIGNATED COMPANY.

33 (B) THE DESIGNATED COMPANY SHALL PROVIDE AND PAY FOR ALL  
34 ADMINISTRATIVE, INFORMATIONAL, AND COUNSELING SERVICES WITH RESPECT TO  
35 THE SPECIAL PAY PLAN OFFERED BY THE DESIGNATED COMPANY.

1 (C) THE DESIGNATED COMPANY SHALL COOPERATE WITH THE  
2 COMPTROLLER AND THE SECRETARY IN CONNECTION WITH ANY CONCERNS THAT  
3 RELATE TO ENROLLMENT, TERMINATION, OR RETIREMENT OF A PARTICIPATING  
4 EMPLOYEE.

5 (D) THE DESIGNATED COMPANY SHALL DISCLOSE TO THE COMPTROLLER ALL  
6 FEES, COMMISSIONS, OR OTHER CHARGES THE DESIGNATED COMPANY IMPOSES OR  
7 COLLECTS WITH RESPECT TO THE SPECIAL PAY PLAN.

8 33-206.

9 A DESIGNATED COMPANY SHALL HOLD HARMLESS AND INDEMNIFY THE STATE,  
10 THE COMPTROLLER, THE SECRETARY, AND THE OFFICERS, AGENTS, AND EMPLOYEES  
11 OF THE STATE, FROM ANY CLAIMS OR DEMANDS ARISING FROM ANY ACT OR  
12 OMISSION ON THE PART OF THE DESIGNATED COMPANY OR ITS OFFICERS, AGENTS,  
13 OR EMPLOYEES, INCLUDING ANY CLAIM OR DEMAND FOR PAYMENT OF BENEFITS OR  
14 DAMAGES ARISING FROM THE FORMATION, EXECUTION, PERFORMANCE, OR  
15 TERMINATION OF A SPECIAL PAY PLAN.

16 SUBTITLE 3. PARTICIPATION.

17 33-301.

18 (A) THE SECRETARY SHALL ADOPT REGULATIONS THAT ESTABLISH THE  
19 NECESSARY CRITERIA THAT AN INDIVIDUAL WHO IS A STATE EMPLOYEE SHALL  
20 MEET TO BE CONSIDERED AN ELIGIBLE EMPLOYEE, INCLUDING AGE AND THE  
21 MINIMUM AMOUNT OF CONTRIBUTIONS REQUIRED BY THE PARTICIPATING  
22 EMPLOYEE.

23 (B) PARTICIPATION IN THE SPECIAL PAY PLAN IS MANDATORY FOR ANY  
24 ELIGIBLE EMPLOYEE.

25 33-302.

26 (A) PARTICIPATING EMPLOYEE CONTRIBUTIONS MADE TO THE SPECIAL PAY  
27 PLAN SHALL BE MADE BY THE COMPTROLLER AT THE TIME THE PARTICIPATING  
28 EMPLOYEE TERMINATES STATE EMPLOYMENT.

29 (B) CONTRIBUTIONS MADE BY THE COMPTROLLER ON BEHALF OF THE  
30 PARTICIPATING EMPLOYEE UNDER SUBSECTION (A) OF THIS SECTION INCLUDE:

31 (1) COMPENSATION FOR THE PARTICIPATING EMPLOYEE'S UNUSED  
32 ANNUAL LEAVE UNDER § 9-305 OF THIS ARTICLE; AND

33 (2) ANY OTHER COMPENSATION APPROVED BY THE SECRETARY.

34 (C) THE COMPTROLLER AND THE SECRETARY SHALL ADOPT REGULATIONS  
35 THAT ARE NECESSARY TO CARRY OUT THIS SECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 June 1, 2004.